

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, September 19, 2007
10:00 a.m.
Sacramento, California
&
West Covina, California

TO: Members of the California Occupational Safety and Health Appeals Board

FROM: J. Jeffrey Mojcher, Chief Counsel

DATE: September 7, 2007

RE: Closed Session of the Board on September 19, 2007

Pursuant to Government Code section 11126, subdivisions (a), (c)(3), and (e) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session.

DECISIONS OF ADMINISTRATIVE LAW JUDGES:

(Written decision issued by an Administrative Law Judge. The decision summarizes the evidence received from the Division of Occupational Safety & Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the decision. The Board Members review the decision and decide if they will reconsider the ALJ decision on their own motion.)

1. COLLET CONSTRUCTION CO., INC., 05-R2D1-2637 (8/31/2007)
2. EDCO PLASTICS, 05-R3D1-4105 (8/31/2007)
3. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477 (8/31/2007)
4. HERRON CONSTRUCTION, 05-R3D1-1314 (8/29/2007)
5. NUMATECH WEST, LLC 04-R3D5-1157 THROUGH 1160 (8/29/2007)
6. R & L BROSAMER, INC., 03-R1D5-4832 (9/6/2007)
7. RAIN RYDER ROOFING, 04-R6D2-3077 (8/31/2007)
8. ROOF STRUCTURES INC., 06-R1D5-1260 (8/31/2007)

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9. SPEISS CONSTRUCTION CO., INC., 05-R2D3-2217 THROUGH 2219 (9/6/2007)
10. UKIAH FORD-LINCOLN-MERCURY, 06-R1D5-2556 AND 2557 (8/31/2007)
11. VALLEY PERFORATING CO., 06-R2D5-1555 (9/6/2007)

ORDERS OF ADMINISTRATIVE LAW JUDGES:

(Written order issued by an Administrative Law Judge after a pre-hearing conference in which the Division of Occupational Safety & Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)

1. ANAHEIM CREST NURSING CENTER, 05-R4D2-4572
2. ANDERSON PLUMBING, 05-R4D3-4442
3. A. TEICHERT & SON, INC., 06-R5D1-5323
4. BAJA EXPLORATION, 05-R3D2-2107
5. CEMEX INC., 07-R5D1-3156 THROUGH 3158
6. CHEVRON PIPE LINE, 06-R1D4-436
7. CORONA MILLWORKS, 04-R6D2-3200 THROUGH 3209
8. CORONA MILLWORKS, 04-R6D2-3889 THROUGH 3991
9. CORONA MILLWORKS, 04-R6D2-3892 THROUGH 3895
10. CROWN SHEET METAL, INC., 06-R3D1-3644
11. DAVIS FABRICATORS, INC., 05-R3D3-1603 AND 1604
12. D E ORCHARDS, L.P., 06-R2D1-394
13. DUNLOP MANUFACTURING, INC., 07-R2D2-3105 THROUGH 3107
14. EARL MORE ENTERPRISES, 05-R2D3-3115
15. FINTON ASSOCIATES INC., 07-R3D1-395 AND 396
16. FISHER HILL PROPERTIES, INC., 05-R1D1-3905

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17. FOOTHILL PACKING, INC., 07-R3D2-1292
18. GSD PACKAGING, 07-R2D5-2708
19. GOLD COAST BAKING CO., INC., 05-R6D2-1849
20. GRAS II INC. dba SPONGES CAR WASH, 07-R2D2-3108 AND 3109
21. HC LIEN RUBBER CO., 05-R4D2-4139 THROUGH 4145
22. HERITAGE CONTRACTING SERVICES, 06-R1D5-2133
23. HOLBROOK CONSTRUCTION INC., 05-R3D3-3552
24. JAMES FEDOR MASONRY, INC., 07-R3D5-405
25. JAMES TRUSS COMPANY, INC., 03-R3D1-3188 AND 04-R3D1-886
26. JOE A. QUINTANA LANDSCAPE MAINTENANCE, 07-R3D1-650
27. JUNKERS HARDWOOD, INC., 06-R6D2-5225 THROUGH 5232
28. K.J. WOODS, INC., 05-R1D3-1571
29. LA BREA BAKERY, 07-R6D2-2547 THROUGH 2551
30. LOS AMIGOS COUNTRY CLUB, 04-R4D4-3870 AND 3871
31. ML INTERIORS, 05-R3D3-3972
32. MANPOWER, INC., 04-R6D2-3789 THROUGH 3791
33. WILLIAM MAUPIN dba MAUPIN FARM, 05-R2D3-962 AND 963
34. MILLER ENVIRONMENTAL, INC., 05-R4D2-3012 AND 3013
35. NATIONAL BEEF, 06-R3D7-4814
36. OPHIR ORR dba NEW GARDEN MECHANICS, 04-R1D5-4325
37. PARAMOUNT FARMS, 05-R4D3-1101 THROUGH 1103

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38. PARAMOUNT SPRING ENGINEERING CO., INC., 05-R6D2-3641 THROUGH 3648
39. PROWEST PCM INC. dba PROWEST CONSTRUCTORS, 06-R3D3-4143
40. RYDER, 06-R3D3-3755
41. SEARS HOLDING CORPORATION, 06-R3D3-4364
42. SELECTBUILD, 07-R2D2-2011
43. SMURFIT-STONE CONTAINER CORP., 07-R1D2-2677
44. SPIESS CONSTRUCTION CO., INC., 05-R2D3-2220 AND 2221
45. STAUB METALS CORPORATION, 06-R3D3-3751 THROUGH 3753
46. SUPERIOR SUPERMARKET EQUIPMENT, 06-R4D4-4289 THROUGH 4291
47. TEAM [TOTAL EDUCATIONAL ACTIVITY MODEL], 04-R3D3-4194 AND 4195
48. TWE ENTERPRISES, 05-R2D2-2908 AND 2909
49. THARALDSON DEVELOPMENT CO., INC., 07-R2D1-2571
50. THERMA, 05-R1D2-1666 AND 1667
51. TITAN INDUSTRIES, 06-R4D2-2851 THROUGH 2853
52. ULTIMATE CABINET DOORS, INC., 05-R6D2-2570 THROUGH 2582
53. ALFREDO A. URQUIZA dba CALYPSO PAINTING, 04-R4D3-4100 THROUGH 4102
54. WHITE METAL PRODUCTS, INC., 05-R4D2-828 THROUGH 830
55. WHITTLE FIRE PROTECTION, 07-R4D3-425
56. WHITING-TURNER CONTRACTING COMPANY, 05-R4D2-1477 THROUGH 1479

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ORDERS DISMISSING APPEALS:

(Written order issued by an Administrative Law Judge disposing of an Employer appeal.)

1. ARNIE'S DOOR & INSTALLATION SERVICE, INC., 05-R3D2-4260
2. DHT, INC., 05-R3D1-3301
3. ESQUIRE DEVELOPMENT, INC., 04-R4D1-4294 AND 4795
4. FOOTHILL PACKING, INC., 05-R3D2-720
5. LAKEVIEW BUILDRES, INC., 05-R4D3-1997 AND 1998
6. RUBEN M. CONSTRUCTION, INC., 04-R4D3-4305

PETITIONS FOR RECONSIDERATION:

(The Division of Occupational Safety & Health and the Employer each has the right to petition the Appeals Board to reconsider a decision or order of an Administrative Law Judge. The Appeals Board must decide to grant or deny each petition.)

1. ABM INDUSTRIES, INC dba ABM JANITORIAL SERVICES, 07-R1D1-9135 THROUGH 9137
2. CEJA REYES, INC., 07-R2D3-9216
3. DAVIS ROOFING, INC., 05-R3D3-4127
4. KELLY SERVICES, INC., 06-R1D2-1024

DENIAL OF PETITION FOR RECONSIDERATION (DRAFT):

1. HARRINGTON TOOLS, INC., 06-R4D1-2824 THROUGH 2826

DECISIONS AFTER RECONSIDERATION (DRAFTS):

(If the Appeals Board grants a petition for reconsideration it reviews the facts of the appeal and then issues a decision after reconsideration upholding, reversing or modifying the underlying ALJ decision.)

1. AC FRAMERS INC., 03-R2D3-3475
2. A & C LANDSCAPING, INC., aka A & C CONSTRUCTION, INC., 03-R4D4-4791
3. ADVANCED POLYMER TECHNOLOGIES, 04-R2D4-4656

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4. AMERIPRIDE UNIFORM 04-R4D2-106 AND 107
5. A. TEICHERT & SON, INC., A CORPORATION dba TEICHERT AGGREGATES, 04-R5D2-850 AND 851
6. BART, 03-R1D1-5170
7. BAY AREA SYSTEMS & SOLUTIONS, dba BASS ELECTRIC, 01-R1D3-106
8. BLF, INC., dba LARRUBURE FRAMING, 02-R4D1-4675 THROUGH 4680
9. BLF, INC., dba LARRABURE FRAMING, 03-R4D3-4428 AND 4429
10. BLUE DIAMOND MATERIALS, 02-R5D2-1268
11. BRYDENSOT METAL PRODUCTS, 03-R3D3-3554 AND 3555
12. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
13. CALIFORNIA FAMILY FITNESS, 03-R2D1-095 & 096
14. CALIFORNIA FRESH FARMS LLC., 06-R2D4-4127 AND 4224
15. CENTRAL VALLEY CONTRACTING, 05-R4D3-2351
16. CLUB FRESH, LLC, 06-R2D1-9241 AND 9242
17. COX COMMUNICATIONS, 03-R3D2-1942
18. DADE BEHRING, 05-R2D1-2203
19. DAKOTA COMPANIES UNLIMITED, 05-R4D3-392 AND 393
20. DAVIS BROTHERS FRAMING, INC., 03-R3D1-0114
21. DURAMAR FLOOR, INC., 04-R6D2-3442 THROUGH 3448
22. DYNALECTRIC, 03-R1D1-4101
23. E. L. YEAGER CONSTRUCTION COMPANY, INC., 01-R5D3-3261
24. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131
25. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322

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26. GLASS PAK, 03-R2D2-0750 AND 0751
27. HEARN CONSTRUCTION, INC., 02-R6D1-3533 THROUGH 3536
28. HELPMATES STAFFING SERVICES, 05-R3D3-2239
29. HEMMINGSEN CONSTRUCTION CO., INC., 07-R2D3-9277
30. HUSSMAN CORPORATION, 03-R3D1-2939
31. ILH CONSTRUCTION, 02-R1D1-4172
32. J. F. SHEA CONSTRUCTION, INC., 02-R5D3-801
33. JOHN LAING HOMES, 04-R3D1-194 AND 195
34. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-0323
35. KIMES-MORRIS CONSTRUCTION, 02-R1D4-1204 THROUGH 1209 & 02-1273
36. LONG BEACH CITY COLLEGE, 03-R3D5-2747
37. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
38. MCI WORLDCOM INC., 00-R1D1-440 THROUGH 442
39. NIBBLELINK MASONRY CONSTRUCTION, 02-R3D3-1399 THROUGH 1401
40. O& M INDUSTRIES, 04-R1D5-1597
41. PMR RACE CARS, 03-R3D3-1825
42. POUK & STEINLE, INC., 03-R4D2-1495 & 1496
43. RII PLASTERING INC., 02-R3D1-2679
44. SACRAMENTO MUNICIPAL UTILITY DISTRICT, 02-R2D1-1654 THROUGH 1656
45. SPRAY BOOTH TECHNOLOGIES, 03-R3D3-4910
46. STACY & WITBECK INC., 05-R1D1-1142
47. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
48. SUN VALLEY SKYLIGHTS, INC., 03-R4D1-2613 & 2614

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49. TEICHERT AGGREGATES, 04-R5D1-2982
50. TOAD IN THE HOLE TAVERN & GRILL, INC., dba BRITTANY'S CAFÉ, 05-R3D3-2533 AND 2534
51. TRI-COUNTY, INC., 04-R1D5-3927
52. TRIO METAL, 03-R4D4-0317
53. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802
54. WESTERN DOOR, 01-R3D1-2827
55. WEST VALLEY CONSTRUCTION COMPANY, INC., 01-R1D2-3017 & 3018

PENDING LITIGATION

(If the Division of Occupational Safety & Health or the Employer disagrees with a decision after reconsideration or a denial of a petition for reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)

SUPERIOR COURT:

1. HFS INVESTMENTS, INC., 01CS00981 (96-3079)
2. DESILVA GATES CONSTRUCTION, 05CS00008 (01-2742)
3. UNITED ASSOCIATION LOCAL UNION 246, AFL-CIO; IDEPSCA INSTITUTO DE EDUCACION POPULAR DEL SUR DE CALIFORNIA AND CENTRO LEGAL DE LA RAZA, (HARRIS CONSTRUCTION COMPANY, INC.), 07CS00518 (02-3914)
4. INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, LOCAL LODGE 1781; JULIA SMITH, (UNITED AIRLINES dba UNITED AIRLINES SFO SYC), 07CS00331 (00- 2844)
5. WESTERN MILLING, LLC, 06 CE CG 04007 (06- 9039/9040)
6. IRBY CONSTRUCTION COMPANY, ECU03759 (03-2728)

PERSONNEL *(Issues regarding staff.)*

Any matter not completed at this Closed Session may be continued to subsequent meetings.